

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DIVISION OF TEXAS
BEAUMONT DIVISION**

No. 1:09-CV-887

Billy E. James

Plaintiff

v.

Michael J. Astrue,
Commissioner of Social Security

Defendant

**Memorandum and Order to Submit
Motion for Summary Judgment**

Plaintiff seeks judicial review of denial of application for Social Security disability insurance benefits by defendant. The case has been referred to the undersigned United States Magistrate Judge for review, hearing if deemed necessary, and submission of a report with recommended findings and conclusions. See 28 U.S.C. § 636(b)(1)(B) (2003) and Loc. R. CV-72 & App. B, R.1(H) for the Assignment of Duties to United States Magistrate Judge.

Complaints for review of final decisions of the Commissioner are treated as appeals. In the typical case, an order directing the filing of plaintiff's brief, defendant's response, and any reply briefs is entered after the

Commissioner answers the complaint. However, plaintiff proceeds pro se in this matter. The court therefore deems it to be in the interests of justice to adopt a procedure it has previously utilized in such circumstances. It is

ORDERED that defendant shall submit a motion for summary judgment and a transcript of administrative proceedings on or before **September 30, 2010**. The motion shall contain under the appropriate headings and in the order here indicated:

- A. Statement of the Issues. This statement should set forth in separate numbered paragraphs all of the bases which defendant contends support the motion.
- b. Statement of the Case. This statement should indicate briefly the course of the proceeding and its disposition at the administrative level and should set forth a general statement of facts. This statement of facts shall include:
 - i. plaintiff's age, education, and work experience;
 - ii. a summary of the physical and mental impairments alleged;
 - iii. a brief outline of the medical evidence; and
 - iv. a brief summary of other evidence of record.

Each statement of fact shall be supported by reference to the page in the record where the evidence may be found.

- C. Argument. The argument shall be divided into sections separately treating each issue and shall set forth the contentions of the defendant with respect to the issues presented. Each contention shall be supported by specific reference to the portion of the record relied upon and by citations to statutes, regulations, and cases supporting plaintiff's position.
- D. Conclusion. A short conclusion stating the relief sought.

It is further

ORDERED that plaintiff shall file a response to defendant's motion within **21** days after service. Plaintiff's brief shall conform to the requirements

set forth above for defendant's motion, except that a statement of the issues and a statement of the case need not be made if plaintiff is satisfied with defendant's statement thereof. It is further

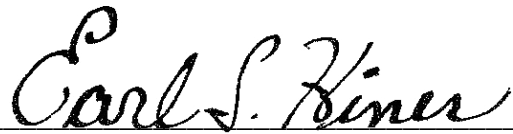
ORDERED that the Clerk serve a copy of this Order on plaintiff and on the United States Attorney for the Eastern District of Texas, who is **DIRECTED** to serve a copy of this order upon the Commissioner and upon all appropriate national and regional offices.

After all briefs are filed, the undersigned will review them, and the administrative record with reference to the issues the parties have presented for decision. The undersigned's report and recommendation to the presiding judge will be based on the issues identified and argued in the briefs. **Any issue not raised and discussed in the briefs will be deemed waived.**

If the briefs do not adequately define or discuss the issues in controversy, oral arguments may be scheduled. If oral argument is required, a date will be set and the parties will be notified by separate order.

No further scheduling order will be entered in this matter.

SIGNED this 5 day of May, 2010.

A handwritten signature in black ink, reading "Earl S. Hines", written over a horizontal line.

Earl S. Hines
United States Magistrate Judge